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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G. O. Rt. No. 92/Lab./AIL/T/2017,
Puducherry, dated 15th June 2017)

NOTIFICATION

Whereas, an award in I.D.(T)18/2013, dated 27-4-2017 of the Labour Court, Puducherry in respect of the industrial dispute between the Management of Texbond Nonwovens, Thirubuvanai, Puducherry and Texbond Nonwovens INTUC Sangam, Puducherry over charter of demands regarding unfair labour practice and wage revision has been received;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) read with the notification issued in Labour Department's G. O. Ms. No. 20/91/Lab./L., dated 23-5-91, it is hereby directed by Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

E. VALLAVAN,
Additional Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL -CUM-
LABOUR COURT AT PUDUCHERRY**

Present :Thiru G. THANENDRAN, B.COM., M.L.,
Presiding Officer.

Thursday, the 27th day of April 2017.

I.D. (T) No. 18/2013

K. Durai Raj,
The Texbond Non-wovens,
INTUC Sangam. . . Petitioner

Versus

The Managing Director,
M/s. Texbond Non-wovens,
Thirubuvanai,
Puducherry. . . Respondent

This industrial dispute coming up before me for final hearing on 28-2-2017 in the presence of Thiruvalargal A. Govindu and A. Sakthivel, Counsel for the petitioner, Thiruvalargal S. Radjagopalane and V. Nagalingom Pillai, Counsel for the respondent, upon hearing both sides, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This industrial dispute has been referred by the Government as per the G. O. Rt. No. 173/AIL/LAB/J/2013, dated 3-12-2013 for adjudicating the following:-

(i) Whether the dispute raised by the Texbond Non-Wovens, INTUC Sangam against the management of M/s. Texbond Nonwovens, Puducherry over charter of demands such as wage revision, annual increment @ ₹ 3,000, total wage package of ₹ 20,000, V.D.A., H.R.A., @ 25%, festival advance, is justified or not?

(ii) If justified, what relief, the Union is entitled to?

(iii) To compute the relief, if any, awarded in terms of money, if it can be so computed ?

2. The brief averments of the claim statement filed by the petitioner are as follows :

(i) The petitioner were employed nearly nine years of service with the respondent management and the management is not contributing for P.F. and E.S.I., the contribution is entirely from the employees and there is no contribution and deduction on the part of the respondent which is against the Act and so far the management has not given any wage slip to the workers. The respondent also engages employees from north India in the grade of operators on contract basis and has fixed the wage with disparity between the employees from north India and the petitioner union employees without any rhyme or reason. All the employees does not differ in any kind either in their nature of work or their designation. The respondent has shown this disparity only to show their scheming attitude over the employees and has never follow the principal of equal pay for equal work instead they adopted victimization and motivation by paying higher wages to the employees from North India and poor wages has been paid to the employees attached with the petitioner union.

(ii) The management for the past several years compulsorily extracts 12 hours of work daily but, the respondent so far has not paid over times wages. When any objection is raised regarding the victimization in the working place the respondent threatens that they

will be terminated from service. Even though they are working for the past nine years, they were not provided with proper Salary Slip, Identity Card and they were not allotted P.F. Hence, the worker with the help of union approached the respondent, the respondent management taking into consideration of this Act of the union members and refused employment to 6 union employees without any reason and justification. The respondent frequently transfer and change their working place as they like, hence, there is no protection to their service condition and there is no safety in the working place and to develop a convenient working atmosphere made a charter of demand regarding the following issues:

i. To provide annual increment of ₹ 3000 per month total wage package of ₹ 20,000 V.D.A., H.R.A-25%, T.A, festival advance, bonus, educational allowance, canteen facility, *etc.*

ii. To issue detailed wage slip.

iii. To contribute P.F & E.S.I. amount as per the Act.

iv. To pay over-time allowance when the workers compelled to work for more than 12 hours of work per day.

v. To provide protection to their service condition

vi. To pay equal wages for equal work and there should not be discrimination in the wages.

vii. Wages should be revised with effect from July 2012 and to include dearness allowance in the wage structure.

viii. To provide employment to their 7 union employees.

ix. Higher wages to the contract employees from North India should not be paid and they should not be engaged in the regular nature of work.

x. To provide appointment orders and identity cards to their employees.

But, the respondent neither chosen to settle the issues nor replied to their representations, instead the petitioner's demand was neglected. Hence, the petitioner union made a representation before the labour conciliation to resolve the dispute. On the basis of their representation conciliation was held between the petitioner and the respondent before the Labour Officer (Conciliation). Even in the conciliation proceedings also the respondent has not co-operated to arrive at a common idea and refused to take the

advice of the conciliation machinery and requested to close the conciliation proceedings for adjudication. Hence, this industrial dispute was raised in order to meet their needs.

3. The brief averments of the counter filed by the respondent are as follows :

(i) The respondent denied all the allegation of the petitioner except those that are specifically admitted. The charter of demands raised by the petitioner is not clear, specific and consistent and the increment to an employee is a sole discretionary right of the employer which cannot be demanded as a matter of right and the increment is given upon valuation of the employee based on his skill, ability, performance, sincerity and other factors and the demand of the petitioner to give ₹ 3,000 as increment is not admissible and apart from this, the respondent is paying increment to all the employee annually without any discrimination irrespective of the profit and loss of the company and the demand of the petitioner in respect of total wage package of ₹ 20,000 D.A., H.R.A. @ 25% are all very exorbitant and inconsistent as per the Wages Act and in fact the floor minimum wages as per the Central Government notification and as per the guidelines of the Labour Department, Puducherry, the total wages to the employee for a month should not be below ₹ 4,350 (*i.e.,*) ₹ 145 per day inclusive of all the allowances, but the respondent is paying total wages for a month to each employee ranging from ₹ 9,500 to ₹ 15,000 and the respondent is paying total wages more than the guidelines of the Labour Department, Puducherry. The petitioner has not mentioned in the demand, where in Puducherry, for these nature of companies are giving the incentive and total package as demanded by the petitioner.

(ii) The respondent is promptly paying the P.F. and E.S.I. contribution to the concerned Department as per the Act and the proof of the contribution to P.F. and E.S.I. are submitted and the employees are working for 8 hours a day at the respondent's company and the over-time wages are paid to the employees in calculation from the total wages and not from the basic wages and the company has given prime importance to the welfare of the employees and provided adequate safety measures to the employees and as well to their service condition and the wages were revised as per the Act and the guidelines of the Labour Department, Puducherry and the respondent without prejudice ready to accept all the suggestion of the employees when it is fair and correct and there was no dismissal of 7

union employees and there is no contract employees in the company and in fact all the employees are casual labours and the petitioner has got no right to direct the respondent not to engage the North Indian employees in the regular nature of work.

(iii) The statement of the petitioner is utter false that he is working with respondent management for nearly nine years in fact the company was started only in August 2007 and the allegation of the petitioner are all invented stories for the sake of the case and further the demand of the petitioner for equal wages for equal work is not acceptable because the company was started in the year 2007 only, but, the North Indian workers are having experience for more than 10 to 12 years in the same field and they have worked in the same nature of work in the companies at various places in India and got adequate experience in the work and whereas, the petitioner's union workers are fresher and further the petitioner's union workers has damaged the products and the output of the petitioner's union workers are not satisfactory and due to many complaints received from the customers, the principle of equal wages for equal work is not applicable in this case and hence, the demand of the petitioner is not justified and hence, the petitioner's demands may be rejected on these grounds.

4. In the course of enquiry, on the side of the petitioner PW.1 and PW.2 were examined and Ex.P1 to Ex.P20 were marked. On the side of the respondent RW.1 was examined and Ex.R1 to Ex.R11 were marked.

5. The point for consideration is that whether the dispute raised by petitioner union against the respondent management over charter of demands is justified or not?

6. Both side arguments were heard. On the side of both sides, written arguments were filed and the same are carefully considered.

7. This industrial dispute has been raised by the petitioner union over the charter of demands for wage revision, annual increment, total wage package, H.R.A., festival advance, educational allowance and to decide whether unfair labour practice is committed by the respondent management. The petitioner has asked for the demand to raise the annual increment at ₹ 3000 per month, total wage package of ₹ 20,000, V.D.A., H.R.A.-25%, T.A., Festival advance, Bonus, Educational allowance, canteen facility with effect from July, 2012 and to issue detailed wage slip and also to contribute P.F and E.S.I. amount as per the Act and to pay over time

allowance when the workers compelled to work for more than 12 hours of work per day and also to provide employment to the 7 union employees. The demands of the union was neglected by the respondent management and that therefore, it was represented before the Conciliation Officer and even after several sittings for conciliation and on failure of the conciliation, this case has been referred to this Court by the Government of Puducherry.

8. The respondent has stated in his counter that the granting of increment to an employee is a sole discretionary right of the employer and therefore, it cannot be claimed as a matter of right and the demand of the petitioner to give ₹ 3,000 as increment is not admissible and the respondent is paying increment to all the employees annually without any discrimination irrespective of the profit and loss of the company and that the minimum wage should not be less than ₹ 4,350 (*i.e.*) ₹ 145 per day and the respondent is paying total wages for a month to each employee ranging from ₹ 9,500 to ₹ 15,000 and that therefore, the demand of the petitioner is not a valid one and the respondent further stated in his counter that they are paying the P.F. and E.S.I. contribution to all the employees and the employees are working only for 8 hours per day at the respondent company and no overtime wages to be paid to the employees and there was no dismissal of 7 employees as stated by the petitioner.

9. In the evidence, PW.1 and PW.2 has deposed the facts which are in the claim statement and in support of their case, the petitioner has exhibited the representation given by the union to the Conciliation Officer on 22-1-2013 as Ex.P1, wherein it has been stated that the union has passed the resolution for demand of ₹ 3,000 to the employees in addition to the Basic Pay and to raise ₹ 3,000 per year as Dearness Allowance and also to raise shift allowance, over time wages, educational expenditure, portal allowance, 20% bonus and to increase the increment at ₹ 1,500. The another representation given by the union to the Conciliation Officer on 1-2-2013 as Ex.P2, wherein, it has been stated that the respondent management has not come forward to invite the union members for settlement talks and threatened the union members. Ex.P3 is also the another representation sent by the union to the Conciliation Officer on 8-2-2013, wherein, it has been stated that the respondent management has not come forward to accept the demands of the petitioner and also has refused to permit the employees to work from 30-1-2013. Ex.P4 is the another representation given by the respondent

management to the Labour Officer stating that they are giving increase on every year with effect from April and all the workers and staffs are given increment for July, 2012 and assured that increment will be given during July as per the performance of the each and every employee. Ex.P5 is the another representation given by the union to the Conciliation Officer with same demand of same kind to raise the wages of the employees. Ex.P6 is also the representation given to the Labour Officer by the union stating that they are working for 12 hours per day instead of 8 hours and seeking direction to the respondent management to pay the over time wages for 4 hours. Ex.P7 & Ex.P8 are also the representations given by the union to the Conciliation Officer stating that the management has been committing victimization against the labourers and also to raise the same demands in respect of wages and increase in bonus, portal allowance. Ex.P9 is the failure report sent by the Conciliation Officer to the Secretary to Government, Labour Department. Ex.P10 is the reference sent by the Government to this Court. Ex.P11 is the another requisition given by the union to the Conciliation Officer to direct the respondent management to give equal salary to the members of the union like North Indian labourers. Ex.P12 is the another requisition given by the union to the Conciliation Officer stating that the respondent management is refusing to allot work to the workers of the petitioner union. Ex.P13 is the pay slips of the workers which reveals that the salary particulars of the employees. Attendance register is exhibited as Ex.P14. Ex.P15 to Ex.P18 are the wage slip of the employees. Ex.P19 is the salary particulars of staffs of the respondent establishment. Ex.P20 is the certificate of registration of petitioner union.

10. On the other hand, the respondent has examined one Raja Balaji as RW.1 and he has denied the averments of the petitioner and stated that they are paying E.S.I., and P.F., contribution to the employees of the respondent establishment as per the Act as followed by the Factories in Puducherry and the demands of the petitioner have to be rejected. Further, he deposed that minimum wages as per the guideline of Labour Department of Puducherry is ₹ 4,350, but, the respondent is paying ₹ 9,500 to ₹ 15,000 to their employees and that therefore, the demand made by the petitioner to raise ₹ 3,000 as increment is not sustainable and that the workers are working only 8 hours per day not for 12 hours and that they have not dismissed 7 union employees as stated by the petitioner and that there is no contract employees at their establishment. The respondent has also exhibited

the licence issued by the Commissioner, Mannadipet Commune Panchayat, Puducherry as Ex.R1, Registration of license to factory issued by the Chief Inspector of Factories as Ex.R2, Factory licence as Ex.R3, Certificate of Registrations of Factories as Ex.R4, Ex.R5 is the letter issued by the Assistant P.F. Commissioner. Combined challan EPF contribution as Ex.R6. EPF contribution till January 2016 as Ex.R7, E.S.I. return of contribution as Ex.R8, E.S.I. contribution till January 2016 as Ex.R9, staff salary details for the month of April, 2013 as Ex.R10, staff salary details for the month of January, 2016 as Ex.R11.

11. In the claim statement, the petitioner have stated that 7 employees have refused employment by the respondent management and they have sought for an order of reinstatement in the claim statement. However, this reference has been made by the Government to this Court only to decide the dispute raised over the charter of demands such as wage revision, annual increment, total wage package of ₹ 20,000, H.R.A., festival advance, educational allowance and this reference has not been referred to this Court to decide any industrial dispute over the termination of employment and that therefore, this Court does not decide the above claim in this reference and the petitioner can seek such a remedy in any other dispute raised before the Conciliation Officer and to file a separate application for reinstatement before this Court and that therefore, this Court cannot pass such order of any reinstatement as claimed by the petitioner in the claim statement and this Court cannot decide any other issues beyond the reference.

12. From, the pleading of both the parties, it is clear that both the parties have admitted the following facts *i.e.*, the respondent management is engaged in manufacturing of medical articles such as face mask, shoe covers, surgeon caps, *etc.*, and the petitioner union has raised the industrial dispute and submitted an application to the Conciliation Officer over the charter of demands for wage revision, annual increment, total wage package of ₹ 20,000, V.D.A., H.R.A., festival advance and the union has submitted some applications to reinstate the dismissed employees and the union members are working in the respondent establishment and the respondent management has not given ₹ 3,000 as increment as claimed by the petitioner and the conciliation was failed before the Conciliation Officer.

13. It is the main contention of the petitioner union that the respondent management has refused for revision of wages and the respondent management is paying poor wages below the rate of minimum wages and equal wages are not paid to the equal work and the respondent management is paying higher wages to the employees employed from North India and they are not contributing P.F., and E.S.I., amount to the employees and no amount is deducted on the part of the respondent and the respondent management openly adopts the discrimination in payment of wages and the management extracts 12 hours of work daily but has not paid overtime wages and engages the contract workmen from North India and that there is no protection to their service condition and the management has refused employment to the union employees without any reason and justification and the management has committed unfair labour practice. But, it is the contended by the respondent that they are giving equal pay to the workers who have employed by them and that they have not adopted any discrimination and have not committed any unfair labour practice.

14. To establish the contention of the petitioner, the representations made by the petitioner union before the Conciliation Officer is exhibited as Ex.P1 to Ex.P3, Ex.P5 to Ex.P6, Ex.P11 and Ex.P12. Ex.P11 is the another representation made by the petitioner to the Conciliation Officer, which would evident that the petitioner union has passed a resolution and has raised a dispute before the labour Conciliation Officer and even after to the dispute raised before the Conciliation Officer and while conciliation is pending the respondent management has transferred some machine operators and appointed some North Indians as contract labours and have paid ₹ 20,000 per month to the contract labours. Ex.P12 would evident that the union has submitted an another application before the Conciliation Officer subsequent to the dispute raised by them before the Conciliation Officer that the respondent management has refused to give work to some of the employees of the union and have given employment to North Indian workers and to compel them to withdraw the dispute raised before the Conciliation Officer. These documents would go to show that when the conciliation is pending before the labour Conciliation Officer, the respondent management has appointed some North Indian employees as contract labourers and has paid salary more than the payment of salary given to the regular employees.

15. The petitioner has exhibited the salary slips of employees as Ex.P13 which would go to show that there was some Printing Operators in the respondent management in the name of Madav Adhikari, Anandababu, Vishal Sharma, Rajenthiran, Rajiv Gandhi, Raja and Rahul Singh. The Pay Slip of Anandababu who was working as Operator in the respondent factory would evident that he has joined in the company on 8-11-2010 and he was having gross earning of ₹ 15,400 in the month of July, 2013 and he has not been paid any incentive. The pay slip, of Madav Adhikari who was working as an Operator in the same respondent management would go to show that the said Madav Adhikari earns ₹ 20,375 with incentive of ₹ 3,258 in the month of September, 2013. The Pay Slip of Vishal Sharma would evident that Vishal Sharma earns ₹ 17,862 with incentive of ₹ 2,856 and at the same time Rajenthiran who was working as Operator was earning gross amount only ₹ 7,500 without having any incentive and Rajiv Gandhi who working as an Operator has earned ₹ 9,198 with an incentive of ₹ 3,333 and the pay slip of one Rajiv Gandhi for the month of March, 2014 would go to show that he has earned only ₹ 8,111 with incentive of ₹ 214 while so Rahul Singh earns ₹ 18,025 with the incentive of ₹ 2,575. These document would go to show that the respondent management has not given uniform salary to the Operators of the respondent and as rightly stated by the petitioner union, the respondent management has given more salary to the North Indian contract workers than the regular employees of the factory and furthermore, from the exhibits marked by the petitioner, it is also revealed that the respondent management has refused to give employment to the workers while the conciliation proceedings was pending.

16. To prove the contention of the petitioner that the respondent management has not paid equal salary to the members of the petitioner union they have exhibited Ex.P17 the salary slip of one Madav Adhikari, which would go to show that the said Madav Adhikari, has joined the respondent factory only on 1-5-2013 and he has been given salary of ₹ 46,038 for the month of August, 2014 and Ex.P18 the salary slip of Abinash Kumar Singh would show that the said Abinash Kumar Singh who has joined on 15-5-2014 was given salary of ₹ 18,902 for the month of September-2014 and Ex.P16 the salary slip of Srinivas Patra would show that the said Srinivas Patra was working as Shift Engineer and joined the service on 22-5-2014 in the factory has been given ₹ 23,000 as monthly salary for the month of August.

Ex.P15 is the Salary Slip would go to show that Sunil Kumar Yadhev who has joined on 12-5-2014 in the factory was given ₹ 15,612 for the month of May, 2014 for 19 days. On the other hand, Ex.P13 would evident that one Rajenthiran who was in service from the year 2007 and who was working as Machine Operator was given only ₹ 6,335 for the whole month. These discrepancy in the payment of salary has not been explained by the respondent management though the respondent management has stated in the counter that they are paying equal pay to the workers, they have not let any evidence and has not proved that the North Indian employees are having more experience and educational qualification or having any seniority in the work of Operator and therefore, the respondent without giving any explanation before the Conciliation Officer or before this Court has contend that they are paying equal pay for equal work.

17. This Court finds from Ex.P17 that the management has given ₹ 40,038 in the month of August, 2014 to one Madav Adhikari who was working as an Operator and who has joined only on 1-5-2013 in the respondent management and the respondent management has given only ₹ 6,335 without any incentive to one Rajenthiran who was the regular employee and who was working from 21-8-2007 in the respondent factory as an Operator and furthermore, it is clear from the Ex.P13 that one Srinibas Patra has been given ₹ 23,000 for the month of August, 2014 who has joined only on 22-5-2014 and that therefore, these exhibits would go to clearly show that the respondent management has adopted unfair labour practice by victimization in payment of wages to the employees and has not followed the principles of equal pay to equal work in the cadre of Operator in the respondent factory and furthermore, the person namely Rajenthiran who has been joined in the company on 21-8-2007 was paid only ₹ 6335 for the March, 2014 and he has not been given any incentive. From these facts, it can be inferred that the respondent management has not followed any procedure in fixing and paying the salary to the workers who were worked as an Operators of the factory.

18. Though, the respondent RW.1 has denied the allegation of the petitioner as false and filed Ex.R1 to Ex.R11, the documents in Ex.R1 to Ex.R4 would go to show only about the licence obtained by the respondent factory from the Commissioner of Panchayat and Inspector of Factories to conduct the factory and the registration of their establishments under the Indian Partnership Act and Ex.R5 to Ex.R9 would go to show

only that they are paying P.F., and E.S.I., contribution to some of the employees. But, it does not reveals the particulars to whom the contribution is paid and Ex.P10 and Ex.P11 does not reveals about the categories of staffs in the production and total number of workers in the factory and they have not produced any documents to prove that how much salary is being paid to the employees and how much contribution are being paid and for whom the contribution are paid and how much increment is being given to the employees for every year.

19. Furthermore, the evidence of RW.1 in his cross examination runs as follows :

North India—ன் தொழிலாளர்களை ஏன் வேலையில் அமர்த்தினோம் என்று சொன்னால் அவர்கள் அனுபவம் மிக்கவர்கள் என்று வைத்தோம். அவர்களுக்கு வேலையில் அனுபவம் மற்றும் கல்வி தகுதி இருந்தது என்று வைத்தோம் அவர்களை எப்போதிலிருந்து வேலையில் வைத்தோம் என்றால் கம்பெனி தொடங்கியதிலிருந்தே அவர்களை அமர்த்தினோம். அவர்களை அமர்த்தியதற்கு ஆவணம் உள்ளதா என்றால் இருக்கிறது. ஏற்கனவே பணியில் உள்ளவர்களை பணி நீக்கம் செய்தேன் என்று சொன்னால் அது சரியல்ல. புதுவையில் இருக்கும் நிறுவனத்தில் புதுவையில் இருக்கும் பணியாளர்களுக்கு முன்னுரிமை கொடுக்கவில்லை என்று சொன்னால் சரியல்ல. சமவேலைக்கு சமஊதியம் வழங்கவில்லை என்றும் விதியை மீறினேன் என்றும் சொன்னால் சரியல்ல. North Indian-னுக்கு அவர்களுக்கு அனுபவம், தகுதிக்கு சம்பளம் வழங்கப்பட்டுள்ளது. நிர்வாக ஆவணத்தில் North Indian-னுக்கும் புதுவை பணியாளருக்கும் சம்பளம் வித்தியாசம் காட்டியுள்ளேனா என்றால் இல்லை.

From the above evidence, it is clear that the respondent management has pleaded that since the North Indian employees are having experience, technical qualification, they have been given more salary than the local employees but, no documentary evidence is produced before this Court by the respondent management to prove that the said North Indian employees are having any extra educational qualification, technical qualification or experience than the local workmen and furthermore, nothing is produced before this Court by the respondent to prove that they are giving equal pay to the workers and particularly they have not explained anything why they have given salary of ₹ 40,038 in the month of August, 2014 to one Madav Adhikari, an Operator who has joined only in the year 2013 while the regular employee Rajenthiran who has joined in the year 2007 was paid only ₹ 6,335 in the month of March, 2014.

These difference would go to show that the respondent management has not paid equal pay for equal work and that there is discrepancy in paying the wages to the employees who were working in the same cadre as an Operator in the respondent establishment and they have adopted some unfair labour practice in giving the salary and incentives to the workers and therefore, it is held by this Court that the industrial dispute raised by the Texbond Nonwovens INTUC sangam against the management of Texbond Nonwovens over the charter of demands for wage revision, annual increment, total wage package, H.R.A., festival advance, educational allowance is justified.

20. As this Court has justified the industrial dispute raised by the petitioner union against the respondent management, it is to be decided for what relief the workmen of the petitioner union members are entitled to. On this aspect, the evidence and pleading of both the parties are carefully perused. Though, the petitioner has established that there was some wage discrepancies in the payment of wages to the workers, no particulars available before this Court to decide how much increment was already given by the respondent management to the workers for every year and how much H.R.A., V.D.A., educational allowance are paid to the employees so far by the respondent management and hence, this Court could not specify the amount as annual increment or H.R.A. or educational allowance as claimed by the petitioner union. However, it is established by the petitioner union under Ex.P17 that the management has given the Salary of ₹ 46,038 with basic pay of ₹ 15,000, H.R.A. ₹ 7,500 M.A. ₹ 1,500, Con. All ₹ 1,500, E.N.T. ₹ 3,250 to one Madav Adhikari and to the contract employees engaged from North India while they are paying only ₹ 7,000 to the regular employees who were engaged for more than 6 years and that they have not produced any records regarding the contribution of P.F., and E.S.I., overtime particulars before the conciliation proceedings and furthermore, the respondent management was not ready even to discuss the said aspects in the conciliation proceedings and furthermore, it is learnt from the conciliation report submitted by the Conciliation Officer to the Secretary to Government that the conciliation has advised the management to have collective bargain and to settle the issues on bilateral discussion and whereas, the management refused to take the advice of the conciliation machinery and the management has not co-operated with the conciliation proceedings to settle the dispute.

21. These above facts would go to show that even in the conciliation proceedings the management has not at all produced the records with regard to the overtime work done by the employees and the respondent management has not produced any document before this Court to establish that they have not extracting any work more than 8 hours from petitioner union members. These facts and other circumstances would go to show that the respondent management has not at all established that they are not extracting work of more than 8 hours *i.e.*, 12 hours from the members of the union and they have admitted that they are giving only ₹ 7,000 to the regular employees while they are giving the salary to the contract workers about ₹ 22,000 and that therefore, the claim made by the petitioner is reasonable.

22. It is also clear from the evidence, facts and circumstances that the respondent management has adopted unfair labour practice by refusing the equal pay to equal work to the employees of the respondent establishment and further the petitioner have filed the copy of the attendance register of the employees as Ex.P14, which is not authenticated and it is not clear and not signed by anyone and does not have particulars of time worked by the employees and that therefore, this Court could calculate the hours whether they are working more than 8 hours. However, the employees are statutorily entitled for over-time wages if, they are worked for more than 8 hours.

23. Even both the parties have let evidence and filed exhibits, absolutely there is no evidence that how many categories of employees are working in the respondent establishment and how much they are received as Basic Pay, D.A., H.R.A., medical allowance and their increments and furthermore, the evidence is available only regarding the salary of the employees who are working as Operators and hence, this Court decides to take the salary of the employee, the Operator Madav Adhikari as basic and fundamental one to revise the Salary in Basic Pay, H.R.A., D.A., and other allowances to all the employees.

24. In the result, the petition is allowed and the industrial dispute raised by the petitioner union against the respondent management over charter of demands is justified and

(i) the respondent is directed to revise the wages by taking the salary of employee, the Operator Madhav Adhikari under Ex.P17 as a basic and fundamental one to fix the Basic Pay, H.R.A., D.A., and other allowances and increments to the employees proportionately

according to their categories and period of service from the date of claim petition filed before this Court and further

(ii) directed the respondent to give overtime wages in future if, they are working for more than 8 hours and further.

(iii) directed the respondent to pay the statutory contribution for P.F., and E.S.I., to all the employees of the respondent establishment.

Dictated to Stenographer, transcribed by her, corrected and pronounced by me in the open Court on this the 27th day of April, 2017.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal,
Puducherry.

List of petitioner's witnesses:

PW.1 — 18-11-2014—K. Durai Raj

PW.2 — 18-12-2015—Rajiv Gandhi

List of petitioner's exhibits:

Ex.P1 — 22-1-2013 — Letter sent by the petitioner to the Conciliation Officer, Puducherry along with postal receipt.

Ex.P2 — 1-2-2013 — Letter sent by the petitioner to the Labour Officer, Puducherry along with acknowledgment card.

Ex.P3 — 8-2-2013 — Letter sent by the petitioner to the Labour Officer, Puducherry.

Ex.P4 — 18-2-2013 — Letter sent by the respondent to the Labour Officer, Puducherry.

Ex.P5 — 8-4-2013 — Letter sent by the petitioner to the Conciliation Officer, Puducherry.

Ex.P6 — 22-4-2013 — Letter sent by the petitioner to the Labour Officer, Puducherry.

Ex.P7 — 27-5-2013 — Letter sent by the petitioner to the Conciliation Officer, Puducherry.

Ex.P8 — 18-7-2013 — Letter sent by the petitioner to the Conciliation Officer, Puducherry.

Ex.P9 — 7-10-2013 — Report of failure of Conciliation issued by the Labour Officer, Conciliation, Puducherry.

Ex.P10 — 3-12-2013 — G.O. Rt. No. 173/AIL/Lab./J/2013.

Ex.P11 — 11-12-2013— Letter sent by the petitioner to the Conciliation Officer, Puducherry.

Ex.P12 — 12-12-2013— Letter sent by the petitioner to the Conciliation Officer, Puducherry.

Ex.P13 — - — Copy of the pay slip of same cadre employees with different pay.

Ex.P14 — - — Copy of the Attendance Register (with time).

Ex.P15 — May 2014 — Copy of salary slip of Sunil Kumar Yadhev.

Ex.P16 — August 2014 — Copy of salary slip of Srinibas Patra.

Ex.P17 — August 2014 — Copy of salary slip of Madav Adhikari.

Ex.P18 — September 2014 — Copy of salary slip of Abhishek Kumar Singh.

Ex.P19 — August 2014 — Copy of 48 employees and staff salary list

Ex.P20— - — Copy of the certificate of Registration of Trade Union.

List of respondent's witness:

RW.1 — 1-3-2016 — S. Raja Balaji

List of respondent's exhibits:

- Ex.R1 — 6-8-2007 — Copy of the licence issued by office of the Commissioner Mannadipet Commune Panchayat.
- Ex.R2 — 19-7-2007 — Copy of Registration and Licence to work as a factory issued by Chief Inspector of Factories.
- Ex.R3 — 19-7-2007 — Copy of the factory licence renewed till 31-12-2018.
- Ex.R4 — 7-8-2006 — Copy of the certificate of registration as per the Indian Partnership Act, 1932.
- Ex.R5 — 6-9-2007 — Applicability of E.P.F. letter issued by the Assistant P.F. Commissioner/O.I.C.
- Ex.R6 — 15-4-2015 — Copy of the cabined challan E.P.F. contribution-SBI.
- Ex.R7 — 13-2-2016 — Copy of the E.P.F. contribution till January 2016.
- Ex.R8 — 27-10-2014 — Copy of the ESI return of Contribution.
- Ex.R9 — 20-2-2016 — ESI contributions till January 2016.
- Ex.R10 — 30-4-2013 — Copy of the staff salary details for the month of April 2013.
- Ex.R11 — 31-1-2016 — Copy of the staff details for the month of January 2016.

G. THANENDRAN,
Presiding Officer,
Industrial Tribunal,
Puducherry.

GOVERNMENT OF PUDUCHERRY

LABOUR DEPARTMENT

(G.O. Rt. No. 98/AIL/Lab./T/2017
Puducherry, dated 27th June 2017)

NOTIFICATION

Whereas, the Government is of the opinion that an industrial dispute has arisen between the management of M/s. Jayaprakash Narayanan Co-operative Spinning Mill, Neravy, Karaikal and its workman Thiru M. Rajkumar, over reinstatement in respect of the matter mentioned in the Annexure to this order;

And whereas, in the opinion of the Government, it is necessary to refer the said dispute for adjudication;

Now, therefore, by virtue of the authority delegated *vide* G.O. Ms. No. 20/91/Lab./L, dated 23-5-1991 of the Labour Department, Puducherry to exercise the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), it is hereby directed by Secretary to Government (Labour) that the said dispute be referred to the Labour Court, Puducherry for adjudication. The Labour Court, Puducherry shall submit the award within 3 months from the date of issue of reference as stipulated under sub-section 2-A of section 10 of the Industrial Disputes Act, 1947 and in accordance with rule 10-B of the Industrial Disputes (Central) Rules, 1957. The party raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses to the Labour Court, Puducherry within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in the dispute.

ANNEXURE

(a) Whether the dispute raised by the petitioner Thiru M. Rajkumar, Karaikal, against the management of M/s. Jayaprakash Narayanan Co-operative Spinning Mill, Karaikal over reinstatement is justified or not? If justified, what relief he is entitled to?

(b) To compute the relief, if any, awarded in terms of money if, it can be so computed?

(By order)

E. VALLAVAN,
Commissioner of Labour-cum-
Additional Secretary to Government (Labour).